IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 8280 of 2007(I)

PETITIONER:

M/S SANGEETHA RUBBERS,
MINI INDUSTRIAL ESTATE, WEST KODIKULAM P.O.,
THODUPUZHA, IDUKKI DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER
MR. VINOD MATHEW.

BY ADV. SRI.BOBY MATHEW
SRI.E.T.MATHEW

RESPONDENTS:
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1. THE KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY
VAIDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

2. THE DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE THODUPUZHA,
IDUKKI DISTRICT.

3. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION THODUPUZHA,
IDUKKI DISTRICT.

4. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, VANNAPURAM,
THODUPUZHA, IDUKKI DISTRICT.

BY ADV. SRI. P.P. THAJUDEEN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE RECONSTITUTED PARTNERSHIP DEED DATED 5.8.2005 OF THE PETITIONER FIRM.

EXT.P2 TRUE COPY OF THE ORDER DATED 31.12.1996 BEARING NO. GB 2 GI-95-96 ISSUED BY THE THIRD RESPONDENT.

EXT.P3 TRUE COPY OF THE WRIT PETITION FILED BY THE PETITIONER BEFORE THIS HON'BLE COURT (WITHOUT THE EXHIBTS) NUMBERED AS OP 1855 OF 1997

EXT.P4 TRUE COPY OF THE JUDGMENT DATED 2.8.2006 PASSED BY THIS HON'BLE COURT IN OP 1855 OF 1997

EXT.P5 TRUE COPY OF THE ORDER DATED 5.1.2007 BEARING NO. BB3/CASE/VPM/06-07/110 ISSUED BY THE FOURTH RESPONDENT.

EXT.P6 TRUE COPY OF THE REPRESENTATION DATED 3.2.2007 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.P7 TRUE COPY OF THE ORDER DATED 5.2.2007 BEARING NO. GB2/INST/34/06-07/1649 ISSUED BY THE 2ND RESPONDENT ALONG WITH THE INSTALMENT SCHEDULE THERETO

EXT.P8 TRUE COPY OF THE RECEIPT DATED 6.2.2007 BEARING NO. 213 FOR THE PETITIONER HAVING PAID THE FIRST INSTALMENT UNDER EXT.P7

EXT.P9 TRUE COPY OF THE COMMUNICATION DATED NIL ISSUED TO THE PETITIONER FROM THE OFFICE OF THE 4TH RESPONDENT DIRECTING TO REMIT RS. 2,65,748/-.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 8280 OF 2007

Dated this the 12th day of June, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for KSEB. Petitioner is a partnership firm which underwent change in the constitution when OP filed against electricity demand was pending in this Court. The reconstituted firm, which is the petitioner, was not aware of the OP and therefore the same got dismissed. Counsel for the petitioner submits that petitioner wants to file a review petition in the matter, and according to him there is every change of success in the matter. It is seen from Ext.P7 that total liability is Rs. 80748/- which the petitioner was allowed to clear in six equal instalments of Rs. 13,400/- every month. Counsel for the Ele. Board submitted that instalment arrears was exclusive of surcharge and Ext.P9 is issued with surcharge added to it which according to him is permissible. It is seen that surcharge demanded against the arrears has made the demand more than three times. Having regard to the contentions raised, I feel petitioner can be granted reduction in surcharge if arrears are cleared in

terms of Ext.P7 without default. Accordingly interest in the form of surcharge is reduced to 12% per annum, provided petitioner has already paid five instalments and will pay the balance instalment on the due date as shown in Ext.P7. Petitioner is granted another ten equal monthly instalments to clear 50% of surcharge arrears as shown in Ext.P9 first of which will be paid on or before 15th July, 2007 and the balance on or before 15th of nine succeeding months. If default is committed reduction granted in surcharge and instalment facility will stand automatically vacated and respondents will be free to proceed for recovery of the entire amount. Payment will be subject to result of review.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge